

REMARKS

Claims 1 – 111 remain pending in this application. The requirement for restriction is traversed.

37 CFR 1.499 provides that “if the examiner finds that a national stage application lacks unity of invention under § 1.475, the examiner may in an Office action require the applicant in the response to that action to elect the invention to which the claims shall be restricted.”

37 CFR 1.475(b) provides that “a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories: (4) A process and an apparatus or means specifically designed for carrying out the said process.” (Emphasis added).

Here, claims 1 – 89, 109 – 111 and claims 90 – 108 are related as a process and apparatus for carrying out the process, respectively. Specifically, claims 1 – 89 and 109 – 111 are directed to a method for applying a coating on a substrate, comprising presenting a substrate to a chamber, presenting an evaporative source to the chamber, presenting primary carrier gas streams to the chamber, impinging the evaporant source with at least one energetic beam in the chamber. Claims 90 – 108 are directed to apparatus for applying a coating on a substrate, comprising a chamber, at least one evaporative source in the chamber, primary gas streams provided in the chamber, and at least one energetic beam impinging on the evaporative source. Hence, under the applicable rule, 37 CFR 1.475(b)(2), the present application will be considered to have unity of invention. In view of this, the restriction requirement is improper as it violates Rule 475(b).

Further, MPEP 1893.03(d) (Unity of Invention), states: “[w]hen making a lack of unity of invention requirement, the examiner must (1) list the different groups of claims and (2) explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group.

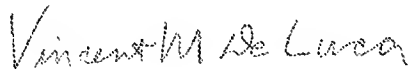
The restriction requirement is improper as it fails to set forth any basis whatsoever for the assertion that “both inventions are either anticipated by or obvious over the

references cited in the international search report.” The Office action fails to identify the prior art references relied upon, fails to explain the claim language, fails to apply the claim language to the prior art references, fails to discuss any differences between the claim language and the prior art, fails to specifically describe the unique special technical feature in each group, and fails to explain why each group lacks unity with each other group.

To comply with 37 CFR 1.143, Applicant elects Group I, claims 1 – 89 and 109 – 111, with traverse. Reconsideration and withdrawal of the restriction requirement is requested in view of the above discussion.

Conclusion

Please charge any fee or credit any overpayment pursuant to 37 CFR 1.16 or 1.17 to Novak Druce Deposit Account No. 14-1437.

RESPECTFULLY SUBMITTED,					
NAME AND REG. NUMBER	Vincent M. DeLuca Attorney for Applicants Registration No. 32,408				
SIGNATURE			DATE	8 March 2010	
Address	Novak, Druce, DeLuca + Quigg LLP 1300 I Street, N.W., Suite 1000 West Tower				
City	Washington	State	D.C.	Zip Code	20005
Country	U.S.A.	Telephone	202-659-0100	Fax	202-659-0105